

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIAHENRY UNSELD WASHINGTON
PLAINTIFF

KANSKY DELISMA dependants et al

NO. 3:19-cv-00196

SUBJECT: LENZHAN

PLAINTIFF RESPONSE TO Doc #89

I, HENRY UNSELD WASHINGTON, AM THE PLAINTIFF IN THE ABOVE CAPTIONED

1. PLAINTIFF MOVES THIS COURT WITH PLAINTIFF RESPONSE TO Doc #89

2. Doc #89 PP 1, 2, PLAINTIFF'S RESPONSE TO THE MOTION TO DISMISS ATTEMPTS TO IMPERMISSIBLY RAISE ARGUMENTS BASED ON CLAIMS THAT WERE NOT PLEADED IN THE AMENDED COMPLAINT, PLAINTIFF RESPONSE: WHEN CONSIDERING A MOTION TO DISMISS THE COURT MAY CONSIDER DOCUMENTS THAT ARE ATTACHED TO OR SUBMITTED WITH THE COMPLAINT, AND ANY MATTER INCORPORATED BY REFERENCE, OR INTERGAL TO THE CLAIM, ITS SUBJECT TO JUDICIAL NOTICE. MATTERS OF PUBLIC RECORD, ORDERS AND ITEMS APPEARING IN THE RECORD OF THE CASE, CHARLES A. WRIGHT AND ARTHUR R. MILLER, FEDERAL PRACTICE - N. PROCEDURE § 1357 (3RD CIR, 2004). WHAT FOLLOWS IS THIS INSTANCE SHOULD INCLUDE PLAINTIFF BRIEF IN OPPOSITION TO DEFENDANTS MOTION TO DISMISS, WHICH DOES NOT MAKE ANY CLAIMS THAT WERE NOT IN THE AMENDED COMPLAINT, AND SHOULD BE CONSIDERED BY THE COURT BUCK V. HAMPTON TWP. SCH. DIST., 452 F.3d 256, 260 (3RD CIR 2006).

2. IT IS AXIOMATIC THAT THE TITLE MEDICAL DIRECTOR IS THE LEADER/SUPERVISOR OF THE MEDICAL DEPARTMENT, AND ALL MEDICAL DECISIONS MADE BY A NURSE, PAC, NPAC OR DOCTORS ARE PER THE ORDERS, AND/OR APPROVAL OF THE MEDICAL DIRECTOR, IN THIS INSTANCE IT IS ALLEGED THAT DEFENDANT, GERONE WAS NOT ONLY AWARE, HE ALSO TOOK PART IN THE CRUEL AND UNUSUAL PUNISHMENT OF PLAINTIFF AND ACTED WITH DELIBERATE INDIFFERENCE TO PLAINTIFF MEDICAL NEEDS ZERBE V. KARNES, 4:07-cv-413, 2008 WL 220414 *4 (3RD CIR JANUARY 25, 2008) (PERSONAL INVOLVEMENT), RODE V. DELLARCI PRETE, 845 F.1195, 1207 (3RD CIR 1989) (PERSONAL INVOLVEMENT THROUGH ACTUAL KNOWLEDGE - ACQUITT-SCIENCE), RITZO V. BOODIE, 423 U.S. 362 (1976) Doc #87 AT 2, 3, Doc #43 AT 10, 52, 62, 309, 423.

3. CONCERNING Doc #89 AT PP 3, 4, TO HOLD A SUPERVISOR LIABLE FOR AN EIGHT AMENDMENT VIOLATION 1-5, PLAINTIFF RESPONSE: ① MEDICAL CARE PER 8TH AMENDMENT STANDARDS (Doc #43 AT 22, 30, 391, 410); ② 24-30, 61, 66; ③ 24, 23, 26-27, 29, 40, 41, 56, 59-62, ④ 70, 72, 68, 84-89, 391, 393, 410-414, 417, ⑤ 52, 62, 309, 423; ⑤ DELIBERATE INDIFFERENCE TO PLAINTIFF HEALTH PROBLEMS, BROWN V. MUEHLHENSBERG TWP., 269 F.3d 205, 216 (3RD CIR 2001).

4. CONCERNING 1, 15, 18, Doc #89, P. 5, PLAINTIFF DECLARE, NO CLAIM IS ALLEGED AGAINST DEFENDANT, GERONE FOR DENIAL OR DELAY OF CARE ON OR NEAR 1, 15, 18, 5. DEFENDANT, GERONE HAS FAILED TO PROVIDE EVIDENCE TO SHOW PLAINTIFF HAS FAILED TO STATE A CLAIM. THEREFORE DEFENDANT, GERONE MOTION TO DISMISS SHOULD BE DENIED.

6. PURSUANT TO 28 U.S.C. § 1746, I CERTIFY UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT, EXECUTED THIS 2ND DAY OF ~~NOVEMBER~~ NOVEMBER 2020, AT SCIE-SOMERSET, SOMERSET, PA.

FILED

DATE: 11.2.20

NOV 06 2020

CLERK U.S. DISTRICT COURT
WEST. DIST. OF PENNSYLVANIA

RESPONSE TO Doc #89, 3:19-cv-00196

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RESPECTFULLY SUBMITTED
S/Henry Unsel Washington
HENRY UNSELD WASHINGTON
AM-3086
PRO SE